

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 636

Introduced by Assembly Member Jones

February 25, 2009

An act to amend Section 5387 of the Public Utilities Code, *and to amend Section 13369 of, and to add Section 13369.5 to, the Vehicle Code*, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 636, as amended, Jones. Charter-party carriers: busdrivers.

(1) The Passenger Charter-Party Carriers Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act makes it unlawful, among other things, for the owner of a charter-party carrier of passengers to permit the operation of any vehicle upon any public highway for compensation without having obtained from the commission a certificate or permit, as specified, pursuant to the act.

This bill would require the commission to permanently revoke the authority of a charter-party carrier that operates a bus without having been issued the proper a permit from the commission or that knowingly employs a busdriver who has not been issued the required *driver's* license, endorsement, or certificate to drive a bus and would permanently prohibit a person who drives a bus for a charter-party carrier without having been issued the proper driver's license, endorsement, or

certificate from driving a bus of any kind. *The bill would also require the Department of Motor Vehicles to refuse to issue or renew, or to suspend or revoke, that person's driving privilege and would also provide that such a person would be permanently ineligible for an endorsement that would permit him or her to drive a bus, as defined. The bill would also authorize a person who has received a notice of refusal to issue or renew, or a notice of suspension or revocation of, his or her driver's license, endorsement, or certificate pursuant to these provisions, to submit a written request for a specified hearing within 15 days after the mailing of the notice.*

The bill would also require an officer of the Department of the California Highway Patrol who stops or inspects a bus of a charter-party carrier that is operating a bus without having been issued ~~the proper~~ a permit from the commission or that is being driven by a driver to whom the appropriate license, endorsement, or certificate has not been issued, to impound the bus. *The bill would also prohibit the commission from issuing a new permit to operate a charter-party carrier if an officer, director, or owner of that charter-party carrier was an officer, director, or owner of a charter-party carrier that had its authority to operate as a charter-party carrier permanently revoked by the commission pursuant to these provisions.*

(2) Under existing law, a violation of the Passenger Charter-Party Carriers Act, or a violation of an order or direction of the commission issued pursuant to the act, is a crime.

Because the provisions of this bill would be a part of the act and because a violation of those provisions or of an order or decision of the commission implementing those provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5387 of the Public Utilities Code is
2 amended to read:

5387. (a) It is unlawful for the owner of a charter-party carrier of passengers to permit the operation of a vehicle upon a public highway for compensation without (1) having obtained from the commission a certificate or permit pursuant to this chapter, (2) having complied with the vehicle identification requirements of Section 5385, 5385.5, or 5385.6, and (3) having complied with the accident liability protection requirements of Section 5391.

(b) A person who drives a bus for a charter-party carrier without ~~have~~ *having* been issued the proper driver's license, endorsement, or certificate shall be permanently prohibited from driving a bus of any kind, including, but not limited to, a bus, schoolbus, school pupil activity bus, or transit bus, and from receiving a license or endorsement that would permit the driving of any bus.

(c) *(1)* A charter-party carrier that operates a bus without having been issued ~~the proper~~ a permit from the commission or that knowingly employs a busdriver who has not been issued the required license, endorsement, or certificate to drive a bus shall have its authority *to operate* as a charter-party carrier permanently revoked by the commission.

(2) The commission shall not issue a new permit to operate as a charter-party carrier if any officer, director, or owner of that charter-party carrier was an officer, director, or owner of a charter-party carrier that had its authority to operate as a charter-party carrier permanently revoked by the commission pursuant to this subdivision.

(d) When an officer of the Department of the California Highway Patrol stops or inspects a bus of a charter-party carrier that is operating a bus without having been issued ~~the proper~~ a permit from the commission or that is being driven by a driver to whom the appropriate license, endorsement, or certificate has not been issued, the bus shall be impounded for 30 days pursuant to the provisions and procedures for the impoundment and release of vehicles under Section 14602.6 of the Vehicle Code. The charter-party carrier shall have a right to ~~an expedited~~ a hearing by the ~~commission~~ *impounding agency*.

SEC. 2. Section 13369 of the Vehicle Code is amended to read:

13369. (a) This section applies to the following endorsements and certificates:

(1) Passenger transportation vehicle.

(2) Hazardous materials.

- 1 (3) Schoolbus.
- 2 (4) School pupil activity bus.
- 3 (5) Youth bus.
- 4 (6) General public paratransit vehicle.
- 5 (7) Farm labor vehicle.
- 6 (8) Vehicle used for the transportation of developmentally
- 7 disabled persons.

8 (b) The department shall refuse to issue or renew, or shall
9 revoke, the certificate or endorsement of any person who meets
10 the following conditions:

11 (1) Within three years, has committed any violation that results
12 in a conviction assigned a violation point count of two or more,
13 as defined in Sections 12810 and 12810.5. The department may
14 not refuse to issue or renew, nor may it revoke, a person's
15 hazardous materials or passenger transportation vehicle
16 endorsement if the violation leading to the conviction occurred in
17 the person's private vehicle and not in a commercial motor vehicle,
18 as defined in Section 15210.

19 (2) Within three years, has had his or her driving privilege
20 suspended, revoked, or on probation for any reason involving
21 unsafe operation of a motor vehicle. The department may not refuse
22 to issue or renew, nor may it revoke, a person's passenger
23 transportation vehicle endorsement if the person's driving privilege
24 has, within three years, been placed on probation only for any
25 reason involving unsafe operation of a motor vehicle.

26 (3) Notwithstanding paragraphs (1) and (2), does not meet the
27 qualifications for issuance of a hazardous materials endorsement
28 set forth in Parts 383, 384, and 1572 of Title 49 of the Code of
29 Federal Regulations.

30 (c) The department may refuse to issue or renew, or may suspend
31 or revoke, the certificate or endorsement of any person who meets
32 any of the following conditions:

33 (1) Within 12 months, has been involved as a driver in three
34 accidents in which the driver caused or contributed to the causes
35 of the accidents.

36 (2) Within 24 months, as a driver, caused or contributed to the
37 cause of an accident resulting in a fatality or serious injury or
38 serious property damage in excess of seven hundred fifty dollars
39 (\$750).

1 (3) Has violated any provision of this code, or any rule or
2 regulation pertaining to the safe operation of a vehicle for which
3 the certificate or endorsement was issued.

4 (4) Has violated any restriction of the certificate, endorsement,
5 or commercial driver's license.

6 (5) Has knowingly made a false statement or failed to disclose
7 a material fact on an application for a certificate or endorsement.

8 (6) Has been determined by the department to be a negligent or
9 incompetent operator.

10 (7) Has demonstrated irrational behavior to the extent that a
11 reasonable and prudent person would have reasonable cause to
12 believe that the applicant's ability to perform the duties of a driver
13 may be impaired.

14 (8) Excessively or habitually uses, or is addicted to, alcoholic
15 beverages, narcotics, or dangerous drugs.

16 (9) Does not meet the minimum medical standards established
17 or approved by the department.

18 (d) The department may cancel the certificate or endorsement
19 of any driver who meets any of the following conditions:

20 (1) Does not have a valid driver's license of the appropriate
21 class.

22 (2) Has requested cancellation of the certificate or endorsement.

23 (3) Has failed to meet any of the requirements for issuance or
24 retention of the certificate or endorsement, including, but not
25 limited to, payment of the proper fee, submission of an acceptable
26 medical report and fingerprint cards, and compliance with
27 prescribed training requirements.

28 (4) Has had his or her driving privilege suspended or revoked
29 for a cause involving other than the safe operation of a motor
30 vehicle.

31 (e) (1) *The department shall refuse to issue or renew, or shall*
32 *suspend or revoke, the driver's license, endorsement, or certificate*
33 *of a person who violates subdivision (b) of Section 5387 of the*
34 *Public Utilities Code.*

35 (2) *A person found to be in violation of subdivision (b) of Section*
36 *5387 of the Public Utilities Code shall be permanently ineligible*
37 *for an endorsement that would permit him or her to drive a bus of*
38 *any kind, including, but not limited to, a bus, schoolbus, youth bus,*
39 *school pupil activity bus, trailer bus, or a transit bus.*

40 (e)

(f) (1) Reapplication following refusal or revocation under subdivision (b) or (c) may be made after a period of not less than one year from the effective date of denial or revocation, except in cases where a longer period of suspension or revocation is required by law.

(2) Reapplication following cancellation under subdivision (d) may be made at any time without prejudice.

SEC. 3. Section 13369.5 is added to the Vehicle Code, to read:

13369.5. (a) A person who has received a notice of refusal to issue or renew, or a notice of suspension or revocation of, his or her driver's license, endorsement, or certificate pursuant to paragraph (1) of subdivision (e) of Section 13369 may submit to the department, within 15 days after the mailing of the notice, a written request for a hearing. Failure to request a hearing, in writing, within 15 days is a waiver of the right to a hearing.

(b) Upon receipt by the department of the hearing request, the department may stay the action until a hearing is conducted and the final decision is made by the hearing officer. The department shall not stay the action when there is reasonable cause to believe that the stay would pose a threat to a member of the motoring public who may require the services of a charter-party carrier.

(c) A person whose driver's license, endorsement, or certificate has been refused or revoked pursuant to paragraph (1) of subdivision (e) of Section 13369 is not entitled to a hearing whenever the action by the department is made mandatory by this article or any other applicable law or regulation.

(d) Upon receipt of a request for a hearing, and when the requesting party is entitled to a hearing under this article, the department shall appoint a hearing officer to conduct a hearing in accordance with Section 14112.

~~SEC. 2.~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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